

disposed entirely within said blood vessel.” Claim 59 is still allowable over the prior art.

New claim 68, which depends from claim 59, has been added to define limitations previously present in claim 59, but defined in connection with an additional stent attached to the second distal stent portion defined in claim 59. Claim 68 is patentable over the prior art.

Claims 54 and 62 stand rejected in the final Official Action under the judicially created doctrine of obviousness-type double patenting as unpatentable over claim 10 of U.S. Patent No. 5,562,726. Applicants will submit a terminal disclaimer disclaiming the terminal portion of any patent issuing from this application extending beyond the term of the '726 patent upon indication that this rejection is the only one remaining in this application.

Also in the Final Official Action, claims 65 and 66 stand rejected under 35 U.S.C. § 102 as being anticipated by either U.S. Patent No. 5,360,443 (Barone) or U.S. Patent No. 5,562,725 (Chuter). As stated in the Official Action, both of these references teach “the use of a bifurcated graft at least partially supported by stent members” Neither of these references teach or suggest, however, the use of a bifurcated stent member. Claim 65 has been amended to specifically define that the stent member supporting the bifurcated graft member is itself bifurcated. This claim construction provides more support for the bifurcated graft member, along with other advantages discussed in the specification of this application, not achievable using the devices taught by Barone and Chuter.

Claim 65 has further been amended to replace the word “leg” with “lumen” and to define that the “at least one lumen” is adapted to mate with a second stent configured to extend into one of the two branched vessels. This feature is also not shown or suggested in the prior art. Claim 65 is thus neither anticipated nor obvious in view of the art.

Claim 66 depends from claim 65 and incorporates all of the limitations found therein. Claim 66 also defines “a second stent, attached to said one lumen

disposed entirely within said vessel, configured to extend into one of the two branched vessels,” which is a feature neither taught nor suggested by Barone or Chuter.

Withdrawal of the rejections of claim 65 and 66 and allowance of those claims are thus respectfully requested.

Accordingly, in light of the foregoing amendments and remarks, it is respectfully submitted that all of the claims of this application are in condition for allowance. Entry of this amendment and an indication of allowability are thus respectfully requested.

Request for Declaration of Interference

Applicant respectfully suggests that an interference should be declared between claims 59 and 65 of this application and claim 1 of U.S. Patent No. 5,575,817 (Martin) (copy enclosed), and between claims 66 and 68 of this application and claim 2 of Martin. Applicants propose that such interference be declared with at least one count corresponding to each of claims 1 and 2 of Martin. The cited claims of this application read on these proposed counts as follows:

Regarding claim 59 as it pertains to claim 1 of Martin (assumed to be the first count), the bifurcated proximal stent portion reads on the first section and the upper limb; the first distal stent portion reads on the first lower limb; and the second distal stent portion reads on the second lower limb. Although claim 59 also specifically defines a graft layer in juxtaposition with the stent, the stent-graft combination reads on the more generic “apparatus” defined in claim 1 of Martin.

Regarding claim 65 as it pertains to claim 1 of Martin, the first bifurcated graft member defining two lumens at least one of which is configured to be disposed entirely within the vessel reads on the first section having an upper limb, a first lower limb, and a second lower limb not extending into a second leg of the bifurcation. Although claim 65 also specifically defines a bifurcated stent supporting the bifurcated graft

member, the stent-graft combination reads on the more generic "apparatus" defined in claim 1 of Martin.

Regarding claim 68 as it pertains to claim 2 of Martin (assumed to be the second count), the additional stent reads on the second section. Although claim 68 also specifically defines a graft layer in juxtaposition with the additional stent, the stent-graft combination reads on the more generic "apparatus" defined in claim 2 of Martin.

Regarding claim 66 as it pertains to claim 2 of Martin, the second stent reads on the second section.

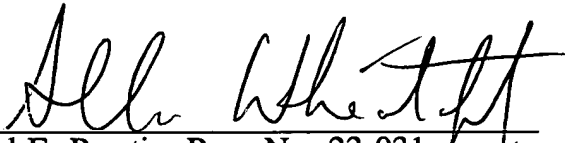
Martin was filed on August 19, 1994. The present application is a divisional of application Serial No. 08/317,763, filed October 4, 1994, which is in turn a continuation-in-part of application Serial No. 08/312,881, filed September 27, 1994. Both of these applications have effective filing dates based on two EPO applications, one filed February 9, 1994 and one filed June 10, 1994. The priority claim to the EPO applications antedates the August 19, 1994 filing date of Martin, thus eliminating the patent as a reference against this application. Because the February 9, 1994 effective filing date of the present application antedates Martin's filing date, Applicants should be senior party in any interference that is declared.

As a matter of information, Applicant has also proposed an interference between Applicant and the Martin patent in Applicant's U.S. application Serial Number 312,881, filed September 27, 1994, and Applicant's U.S. application Serial Number 461,402, filed June 5, 1995.

Upon declaration of the interference, Applicant will place each of the interfering claims of its various applications into a single application, request that they be added to the Interference, and cancel them from the respective applications in which they now appear.

The Examiner in charge of this application is invited to call either of Applicant's undersigned attorneys if any further information is needed or if it will expedite the prosecution of the referenced applications in any way.

Respectfully Submitted,



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Enclosure: Martin Patent

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The Assistant Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. 18-0350 of any fees associated with this communication.

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